

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Luke Petrinovic	Team: Squad #1	CCRB Case #: 201800251	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/10/2018 3:10 PM	Location of Incident: Pearl Street and Fulton Street	Precinct: 84	18 Mo. SOL 7/10/2019	EO SOL 7/10/2019	
Date/Time CV Reported Wed, 01/10/2018 3:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/10/2018 3:47 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jesse Trap	10734	960033	084 PCT
2. POM Robert Maldonado	20175	958862	084 PCT
3. Officers			084 PCT
4. POM Daniel Sandberg	14067	947456	084 PCT
5. DTS Byran Pitts	00245	927362	084 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Donovan Hunt	31553	930378	084 PCT
2. POM John Condon	09094	929928	084 PCT
3. LT Hariton Marachilian	00000	935245	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Discourtesy: Officers spoke discourteously to individuals.	
B.POM Jesse Trap	Force: PO Jesse Trap used pepper spray against § 87(2)(b) and individuals.	
C.POM Daniel Sandberg	Force: PO Daniel Sandberg used pepper spray against individuals.	
D.DTS Byran Pitts	Force: Det. Byran Pitts used physical force against § 87(2)(b)	
E.POM Robert Maldonado	Force: PO Robert Maldonado used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Jesse Trap	Force: PO Jesse Trap used physical force against § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On January 10, 2018, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of § 87(2)(b). § 87(2)(b) witnessed the incident, but does not know § 87(2)(b) or anyone else involved in this case personally.

On January 10, 2018, at approximately 3:10 p.m., a large group of students from a local high school, including § 87(2)(b) were congregating after school dismissal in the vicinity of Pearl Street and Fulton Street, in Brooklyn. A fight broke out between two unidentified young women, and multiple police officers from the 84th Precinct responded to the scene, including PO Jesse Trap, PO Robert Maldonado, PO Daniel Sandberg, and Det. Byran Pitts. The officers attempted to disperse the crowd, and allegedly said, “We’re not fucking playing here”

(Allegation A – Discourtesy: § 87(2)(g)). In the process of dispersing the crowd, PO Trap and PO Sandberg discharged pepper spray at groups of people in the crowd, hitting § 87(2)(b) **(Allegations B and C – Force: § 87(2)(g))**. Having been sprayed with pepper spray, § 87(2)(b) blindly walked into Det. Pitts, and was then forcibly placed in handcuffs by Det. Pitts, PO Maldonado and other unidentified officers **(Allegations D, E, and F – Force: § 87(2)(g))**. During the handcuffing, PO Trap punched § 87(2)(b) in the face **(Allegation G – Force: § 87(2)(g))**. § 87(2)(b) and another woman, § 87(2)(b) were arrested and taken to the 84th Precinct stationhouse.

§ 87(2)(b) obtained video footage from someone that she knows through facebook. § 87(2)(b) however, did not know who filmed the video. The footage is 37 seconds long, and appears to be filmed from a cell phone camera (Board Review 01). Surveillance footage from a business near the incident was also obtained by the investigation; however, it did not depict any of the allegations.

Findings and Recommendations

Allegation (A) Discourtesy: Officers spoke discourteously to individuals.

§ 87(2)(b) (Board Review 02) alleged that, while officers were attempting to disperse the crowd that had gathered during the incident, unidentified officers, she could not see, told people to go home and said, “We’re not fucking playing around.” § 87(2)(b) (Board Review 03) and § 87(2)(b) (Board Review 04), security guards who work at the nearby Metrotech Center, witnessed the incident but did not know § 87(2)(b). § 87(2)(b) stated that he heard officers say things like, “Get the fuck back,” but § 87(2)(b) did not allege that officers used any discourtesy. Neither § 87(2)(b) nor § 87(2)(b) could describe the officers they witnessed using profanity. § 87(2)(b) (Board Review 05) stated that she heard PO Trap say, “Don’t fucking push me,” however, § 87(2)(b) never provided a verified statement and her allegation was not repeated by any other witness.

PO Trap (Board Review 06), PO Maldonado (Board Review 07), PO Sandberg (Board Review 08), PO Condon (Board Review 09), PO Hunt (Board Review 10), Lt. Marachilian (Board Review 11), and Det. Pitts (Board Review 12) all denied that they used profanity, and none of them identified other officers who used profanity.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: PO Jesse Trap used pepper spray against § 87(2)(b) and individuals.

Allegation (C) Force: PO Daniel Sandberg used pepper spray against individuals.

It is undisputed that PO Trap and PO Sandberg used pepper spray during the incident. § 87(2)(b) alleged that, while she was looking for her friends, an officer she did not see sprayed pepper spray at several people there, including a friend of hers. When she went to help her friend, PO Trap sprayed her with pepper spray. § 87(2)(b) and § 87(2)(b) both consistently stated that they observed two unidentified officers holding pepper spray, but did not believe they used it. § 87(2)(b) stated that she saw PO Trap holding his pepper spray in his hand, but did not believe he or any other officer discharged pepper spray.

PO Trap stated that he was setting up a perimeter around the arrest of § 87(2)(b) when a group of approximately 20 young adults came forward. PO Trap put out his arms and told them to get back, but they kept coming forward. No one in the group came into physical contact with PO Trap. He repeated the commands and they did not comply. PO Trap could not recall what the individuals said. He took out his pepper spray and sprayed once in a downward motion in front of him, because he was concerned for his safety and the safety of those around him.

PO Sandberg stated that officers were arresting someone behind him and he set up a perimeter. He ordered people to get back, and a crowd of ten to fifteen young adults ran up to within two feet of him. They did not touch him. PO Sandberg removed his pepper spray and held it up to them, saying that he would spray it if they did not get back. PO Sandberg could not recall their response, but they did not disperse though he warned them at least ten times. Then PO Sandberg discharged his pepper spray upwards towards the crowd for approximately one second. He was not aiming at anyone in particular, just attempting to get the crowd to disperse.

PO Hunt, PO Condon, PO Maldonado, and Det. Pitts, all denied using pepper spray themselves, and none of them could recall whether other officers used it at the scene. Lt. Marachilian stated he did not use pepper spray himself and was unaware of whether officers used it at the time of the incident. He later learned that officers had used pepper spray at the scene, but he could not recall the circumstances.

Under the provisions of Patrol Guide Procedure 221-07, officers may use pepper spray in order to overcome active resistance and gain control over someone being brought into custody or placed under arrest. They should avoid using pepper spray against individuals who are only passively resisting, and should avoid discharging pepper spray in a general area for the purpose of controlling a disorderly crowd (Board Review 13).

§ 87(2)(g)

§ 87(2)(g)

Allegation (D) Force: Det. Byran Pitts used physical force against § 87(2)(b)

Allegation (E) Force: PO Robert Maldonado used physical force against § 87(2)(b)

Allegation (F) Force: Officers used physical force against § 87(2)(b)

Allegation (G) Force: PO Jesse Trap used physical force against § 87(2)(b)

§ 87(2)(b) stated that, while stumbling around after being sprayed with pepper spray, she bumped into Det. Pitts, who she pushed. She was then grabbed and pushed against a nearby wall by Det. Pitts, PO Maldonado, and other unidentified officers. PO Trap ran up to her and punched her in the face. After that she was pulled to the ground, and then § 87(2)(b) felt herself being kicked or punched several times, although she could not see who was doing it. § 87(2)(b) admitted that she resisted the officers during her handcuffing, by pushing back against them and moving her body around. § 87(2)(b) alleged that only PO Trap used force against § 87(2)(b) punching her in the face and then throwing her to the ground and kicking her, although other officers were involved in her handcuffing.

§ 87(2)(b) suffered a black eye from being struck by PO Trap, and she had a knot on her forehead from hitting the floor. Her wrists were also swollen from the handcuffs. She provided a picture of her face taken a day after the incident to the CCRB (Board Review 22).

§ 87(2)(b) stated that Det. Pitts, PO Maldonado, and other officers grabbed § 87(2)(b) pushed her against the wall and then to the ground while she struggled against them, ultimately placing her in handcuffs. Before she was handcuffed PO Trap ran up to § 87(2)(b) and punched her twice in the face and head. § 87(2)(b)'s testimony was consistent with § 87(2)(b)'s although he did not witness the part of the incident involving PO Trap.

At the beginning of the video footage § 87(2)(b) provide, the camera swings around and shows a sidewalk full of people. § 87(2)(b) is standing nearby wearing a salmon colored sweater, and has her eyes closed. Another young woman takes her by the arm and walks her off camera. At 00:15 seconds, § 87(2)(b) can be seen pushing a black male wearing plain clothes, Det. Pitts. Det. Pitts pushes back, and he and a uniformed white male officer both grab her and push her against a metal grate covering a closed storefront. § 87(2)(b) pushes back and struggles with the officers.

At 00:25 seconds, PO Trap runs up to the group of officers surrounding § 87(2)(b) and punches towards her. After that, officers, including PO Maldonado surround § 87(2)(b) obscuring her from the camera. She falls to the ground, and then the footage ends.



201800251_20180205_1217_DM.mp4

PO Trap had no recollection of engaging in a physical struggle at the scene of the incident, and had no recollection of ever striking anyone at the scene. He was shown the video footage of the incident during his CCRB interview, and he confirmed that he was the individual depicted striking § 87(2)(b) however, he did not recall doing so.

PO Maldonado stated that he was involved in a struggle to arrest a woman at the scene, who he and other officers pushed up against a wall while she resisted arrest. He denied that she was ever struck during the arrest, and when he was shown the video of the incident he stated that he believed it depicted a different arrest, which he was not present for or involved in.

Det. Pitts recalled that he was in a struggle with a woman, but could not recall it in any detail or whether she was struck at any time. When he watched the video of the incident during his CCRB interview he identified himself as the plainclothes officer struggling with § 87(2)(b) but stated that the video did not refresh his recollection of the incident.

PO Sandberg, PO Condon, PO Hunt, and Lt. Marachilian all stated that they did not witness the arrest of § 87(2)(b). PO Sandberg and PO Condon did not recognize any officers in the video aside from Det. Pitts and PO Trap, but PO Hunt stated that PO Maldonado was one of the officers depicted in the video arresting § 87(2)(b).

Under the provisions of Patrol Guide Procedure 221-01, officers may use physical force to subdue an individual who is resisting arrest, provided that the force is reasonable under the circumstances (Board Review 14).

It is undisputed that § 87(2)(b) was being restrained by at least police officers who were arresting her for disorderly conduct, and that she was resisting by pushing the officers and refusing to comply with their orders. It is further undisputed that PO Trap subsequently struck § 87(2)(b) in the face, as it is depicted in the video footage of the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (Board Review 15).
- PO Trap has been a member of service for two years and has been a subject in ten CCRB complaints and 17 allegations, none of which were substantiated. Five of the other allegations to which PO Trap has been or is a subject concern the use of physical force (Board Review 16).
- PO Maldonado has been a member of service for two years and has been a subject in five CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) (Board Review 17).

- PO Sandberg has been a member of service for nine years and has been a subject in four CCRB complaints and five allegations, none of which were substantiated. [REDACTED]

§ 87(2)(g)

[REDACTED] (Board Review 18).

- Det. Pitts has been a member of service for 17 years and has been a subject in ten CCRB complaints and 26 allegations, of which three were substantiated (Board Review 19):
 - 201112729 involved substantiated allegations of a stop, search, and frisk against Det. Pitts. The Board recommended instructions, which were imposed by the NYPD.
 - § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of July 9, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 20).
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] have no history of convictions in New York City (Board Review 21).

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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